

COLORADO STATE BOARD OF MEDICAL EXAMINERS
FULL BOARD OPEN MINUTES
February 21, 2008
9:00 a.m.

A full board meeting of the Colorado State Board of Medical Examiners was held Thursday, February 21, 2008, at the Denver Post Building, 1560 Broadway, 9th Floor Conference Room, Denver, Colorado at 9:00 a.m. The meeting was noticed in accordance with Division policy.

Present were Dr. Allen-Davis, Dr. Arja (departed at 2:10 p.m.), Dr. Bair (departed at 12:30 p.m.), Dr. Calonge (departed at 12:30 p.m. and returned at 1:30 p.m.), Dr. Faricy, Mr. Jennings, Dr. Jobin, Dr. Jolly, Reverend Leivers, Dr. Matthews, Ms. Radcliff, Mr. Schoenmakers and Dr. Watts.

The meeting was conducted by Dr. Faricy.

Also in attendance for all or part of the meeting were Board staff Cheryl Hara, Program Director, Susan Miller, Director of the Healthcare Section, Susan Taylor, Enforcement Program Manager, Ilene Johnson, Acting Assistant Enforcement Program Manager, Lorraine Lucero, Enforcement Program Specialist, June Nieto, Complaints Specialist, and Sue Kim, Assistant Attorney General.

MINUTES

A motion was made, seconded, and carried to approve the open minutes of the November 15, 2007 full board meeting as amended and the minutes of the December 13, 2007 and January 10, 2008 Subcommittee-Rule 800 meetings as drafted.

REPORTS

President's Report:

Dr. Faricy reported to the Board regarding outreach and discussions about the requirements for distinguished foreign teaching licenses and the need for primary care providers in Colorado.

Section Director's Report:

Ms. Miller reported to the Board on staffing issues and the Examiner publication.

Program Director's Report:

Ms. Hara reported to the Board regarding the Transparency Bill and its implementation.

Rulemaking Deliberations to Consider Revision of Rule 800 - Delegation and Supervision of Medical Services to Unlicensed Health Care Providers Pursuant to §12-36-106(3)(L), C.R.S. - Following Hearing of November 15, 2007

At 10:15 a.m. an announcement was made that continued discussion of rulemaking following a November 15, 2007 rulemaking hearing would start after conclusion of the General Business appearances.

A motion was made, seconded, and carried to convene the continued Board discussion regarding the November 15, 2007 rulemaking hearing. The discussion convened at 10:50 a.m.

Dr. Faricy presented an overview of the proposed rules. The public testimony portion of the rulemaking hearing had been closed following the November 15, 2007 rulemaking hearing, which was properly noticed under the provisions of the Administrative Procedure Act. At that time, a full opportunity was provided for submission of oral or written comments by the public.

The Board reviewed a memorandum from Cheryl Hara, Program Director, dated February 7, 2008, and a privileged memorandum from counsel. In addition, the Board received and reviewed written correspondence submitted by the following individuals:

- a) Letter dated November 12, 2007, from C.J. Weimer, owner of Barcelona Clinical Spa and Salon.
- b) Letter dated November 14, 2007, from Rebecca de la Torre, M.D., Medical Director at Harmony Laser Center.

- c) Email dated November 16, 2007, from A. Jewell, spa client, regarding her spa experience.
- d) Email with downloaded picture attachments dated December 6, 2007, from Theresa Pacheco, M.D., University of Colorado Dermatology Department.
- e) Letter dated December 11, 2007, from Kenneth P. Callison, Director, Allied Health Association.
- f) Letter dated December 12, 2007, from Carol Hiller, owner of Harmony Laser Center.
- g) Letters dated January 9, 2008 from Rebecca de la Torre, M.D., Medical Director at Harmony Laser Center.
- h) Petitions opposing amendment to Rule 800.

Discussion among the Board members ensued.

After due consideration, a motion was made, seconded and carried to vacate the rulemaking. A motion was made, seconded and carried to authorize staff to commence a new rulemaking as soon as practicable and to draft and post proposed revisions.

Rule 230 Proposed Amendments to Rules and Regulations Regarding Exceptions to Initial Decisions and Related Matters

The Board reviewed a privileged memorandum from counsel.

Discussion among the Board members ensued.

After due consideration, a motion was made, seconded and carried to give notice of future rulemaking and to authorize staff to draft and post proposed revisions to Rule 230.

Recommended Amendments to Recently Adopted Board Rule 150 and Policy 40-21 Implementing the Transparency Act

The Board reviewed a memorandum from Susan Miller, Healthcare Section Director, dated February 5, 2008.

After due consideration, a motion was made, seconded and carried to adopt the amended Policy 40-21.

GENERAL BUSINESS

New EMTS-MDC Recommendations for Rule 500 Waivers

Fred Severyn, M.D., Medical Director Prehospital Care Program, was present at the meeting to discuss new EMTS-MDC recommendations for Rule 500 waiver requests. A number of requesters appeared and presented to the Board.

A motion was made, seconded and carried to approve adoption of the EMTS-MDC recommendations for Rule 500 waiver requests, except as to the request from James Cusick, M.D. As to Dr. Cusick's request, a motion was made, seconded, and carried to approve the EMTS-MDC recommendations as amended.

Request to Vacate Rule 500 Waivers

Fred Morrison, General Manager of Eagle County Ambulance District, and Diana Hearne, M.D., Eagle County Ambulance District, appeared and presented to the Board. The Board also reviewed a letter and attachments from Dr. Hearne dated February 1, 2008.

A motion was made, seconded and carried to approve vacating the identified waivers.

Eagle County Ambulance District Rule 500 Waiver Report

The Board reviewed and discussed the Rule 500 waiver report from Eagle County Ambulance District.

No action was required.

Information Regarding Rule 500 Waiver Requests

The Board reviewed a memorandum from Cheryl Hara, Program Director, dated February 6, 2008, and a waiver review, Rule 500 and master list by Fred Severyn, M.D., Medical Director Prehospital Care Program.

After discussion regarding data collection, time limitations, and other desired changes to Rule 500 waivers, a motion was made, seconded and carried to give notice of future rulemaking and to authorize staff to draft and post proposed revisions.

Potential Revision to Standard Stipulation for Practice Monitoring

The Board reviewed a privileged memorandum from counsel.

Discussion among the Board members ensued.

A motion was made, seconded and carried to direct the Office of the Attorney General to draft proposed amendments to a sample Stipulation and Final Agency Order regarding practice monitoring.

Medical Records Release and Retention

The Board reviewed a memorandum from Cheryl Hara, Program Director, dated February 6, 2008.

Discussion among the Board members ensued.

A motion was made, seconded and carried to direct staff to conduct further investigation.

Practice on an Expired Medical License

The Board reviewed a memorandum from Cheryl Hara, Program Director, dated February 7, 2008.

Discussion among the Board members ensued.

A motion was made, seconded and carried to direct staff to conduct further investigation.

Requests for Waivers of Board Rule 400 Regarding the Regulation of Physician Assistants (P.A.s)

Maurice Archuleta, M.D.

After the Board reviewed a request for waiver from Dr. Archuleta, a motion was made, seconded and carried to approve the waiver as requested.

William L. Bradshaw, D.O., St. Vincent Hospital Family Practice

After the Board reviewed a request for waiver from Dr. Bradshaw, a motion was made, seconded and carried to approve the three identified P.A.s and one P.A. to be identified, not to exceed a total of 2 FTEs.

Dan Smilkstein, M.D., North Park Medical Clinic

After the Board reviewed a request for waiver from Dr. Smilkstein, a motion was made, seconded and carried to approve supervision of two additional P.A.s, maximum supervision of two P.A.s at any one time, qualified by the requirement to immediately notify the Board of P.A.s he is no longer supervising.

Requests for Waiver of Five Collaborative Agreement Limit

After the Board reviewed a request for waiver and letter dated January 22, 2008, from Linda L. Johnson, WHCNP, Clinic Director at Boulder Valley Women's Health Center, the Board found that quality patient care can be maintained. A motion was made, seconded and carried to grant the request as long as there are not greater than five full time equivalent employees.

Proposed Form for Use Pursuant to Workers' Compensation Act

Bob Summers, Director of the Division of Workers' Compensation, and Katherine Mueller, Medical Director for the Division of Workers' Compensation, appeared and presented to the Board.

Discussion ensued regarding a proposed form for physicians' use in performing independent medical exams pursuant to the Workers' Compensation Act.

No action was taken.

COLORADO PHYSICIAN HEALTH PROGRAM ("CPHP") REPORTS

The Board reviewed the CPHP Second Quarter Report ending December 31, 2007.

A motion was made, seconded and carried to accept the report.

ATTORNEY GENERAL REPORTS

a. Case Status Reports

The Board reviewed privileged case status reports dated February 5, 2008.

b. Tina M. Long, Unlicensed, Case # 2007-003347-F

The Board reviewed a privileged memorandum from counsel regarding this case.

The Board gave guidance on this case.

c. Venus Moshrefi, Unlicensed, Case # 2007-002457-F

The Board reviewed a privileged memorandum from counsel regarding this case. Ms. Moshrefi appeared and addressed the Board.

At 1:02 p.m., a motion was made, seconded and carried unanimously to enter into executive session pursuant to Section 24-6-402(3)(a)(III), C.R.S., to discuss matters which, by law, are confidential and constitute confidential attorney-client privileged information pursuant to Section 13-90-107(1)(b), C.R.S., regarding the matter of Venus Moshrefi. After discussion, at 1:04 p.m., the Board voted to leave executive session and returned to open session to act on this case.

A motion was made, seconded and carried to dismiss the case as being without merit.

REPORTS OF OFFICE OF INVESTIGATIONS

Connie Sanchez, Unlicensed Practice, Case #2008-001327-F

The Board reviewed a memorandum from Martha C. Mesch, Investigator, dated December 21, 2007.

A motion was made, seconded and carried to dismiss the case as being without merit.

ALLEGATIONS OF UNLICENSED PRACTICE OF MEDICINE AND/OR RULE 800 VIOLATIONS

Harry Adelson (Unlicensed Practice)

The Board reviewed a complaint dated January 17, 2008.

A motion was made, seconded and carried to refer this matter to the Office of Investigations and follow-up referral to law enforcement pursuant to Division policy.

Diane Dill, M.D. (Rule 800 Violation)

The Board reviewed a letter dated January 22, 2008.

A motion was made, seconded and carried to refer this matter to an Inquiry Panel of the Board.

Cindy and Robert Goodman (Unlicensed Practice and/or their Medical Director's Rule 800 Violation)

The Board reviewed a memorandum from Diane Blea, Inspector for Barber and Cosmetology Board, dated October 15, 2007.

A motion was made, seconded and carried to refer Drs. Michelle Moran and Dr. Eric Bruner to an Inquiry Panel of the Board.

Oh Chang Kwon (Unlicensed Practice)

The Board reviewed a letter from Shelley Hitt, Section Director for Acupuncture Licensure, dated September 17, 2007.

A motion was made, seconded and carried to dismiss this matter as being without merit.

C. W. Lovell (Unlicensed Practice)

The Board reviewed a letter from Kenton T. Bruice, M.D., dated December 5, 2007.

A motion was made, seconded and carried to refer this matter to the Office of Investigations.

Tamea Rae Sisco (Unlicensed Practice)

The Board reviewed a memorandum from Julie Norcross, former staff member for Board of Chiropractic Examiners, dated August 29, 2007.

A motion was made, seconded and carried to table this matter pending the outcome of the Board of Chiropractic Examiners' case. A motion was made, seconded, and carried to refer Anthony Wallace to an Inquiry Panel of the Board.

Tracia Tayon (Unlicensed Practice)

The Board reviewed a memorandum from Matt Azer, former Program Director of Barber and Cosmetology, dated August 29, 2007.

A motion was made, seconded and carried to dismiss this matter as being without merit.

Glenn Wallis (Unlicensed Practice)

The Board reviewed a memorandum from Assistant Attorney General Karen McGovern dated February 1, 2008.

A motion was made, seconded and carried to refer this matter to the Office of Investigations.

Notification of New Medical Director, Com*Plex Skin Fitness Clinic

The Board reviewed a letter from Janice Walters, Respondent in dismissed Case No. 2006-004559-F (unlicensed practice) dated January 11, 2008, with attachment; a letter from Board staff dated August 21, 2007; and a memorandum from Martha Mesch, Investigator, dated June 20, 2007.

No action was taken.

Alleged Corporate Practice of Medicine

The Board reviewed a memorandum from Board staff dated February 5, 2008.

No action was taken.

Annual Designation of the location where all Board meeting notices will be posted.

The Board reviewed a memorandum from Cheryl Hara, Program Director, dated February 6, 2008.

A motion was made, seconded and carried to adopt the annual designation notice pursuant to Section 24-6-402, C.R.S.

Items of Interest

The Board reviewed the Drug Enforcement Administration Advisory regarding restricted distribution of methadone hydrochloride tablets.

The Board was informed of a lawsuit in federal court involving Paul Mitchell, M.D.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:10 p.m.

FOR THE BOARD OF MEDICAL EXAMINERS

Approved by: Patrick O. Faricy, M.D.

Date: May 22, 2008